

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Wael R. Joseph, et al.                      Art Unit 1615  
Serial No. 10/659,969  
Filed September 11, 2003  
Confirmation No. 5031  
For    ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND  
       LUBRICATING COMPOSITION  
Examiner Hasan Syed Ahmed

**APPEAL BRIEF**

Christopher M. Goff, Reg. No. 41,785  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, 26th Floor  
St. Louis, Missouri 63102  
(314) 621-5070

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May 11, 2010

**APPEAL BRIEF**

This is an appeal from the final rejection of the claims of the above-referenced application made in the final Office action dated December 11, 2009. A Notice of Appeal was filed on March 11, 2010.

**I.    REAL PARTY IN INTEREST**

The real party in interest in connection with the present appeal is Kimberly-Clark Worldwide, Inc. of 401 N. Lake Street, Neenah, Wisconsin 54957-0349, a corporation of the state of Delaware, owner of a 100 percent interest in the pending application.

**II.   RELATED APPEALS AND INTERFERENCES**

Appellants are not aware of any pending appeals, which may be related to, directly affect or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

**III. STATUS OF CLAIMS**

Claims 1-8, 10, 12-17, 20-33, 35-40, 42, 44-47, 50-64, 66-74 are currently pending in the application for consideration. Claims 9, 11, 18, 19, 34, 41, 43, 48, 49, and 65 were cancelled during prosecution of this application. A copy of the claims

involved in this appeal appears in the Claims Appendix of this Brief.

Claims 1-8, 10, 12-17, 20-33, 35-40, 42, 44-47, 50-64, 66-74 stand rejected. The rejections of claims 1-8, 10, 12-17, 20-33, 35-40, 42, 44-47, 50-64, and 66-74 are being appealed.

Claims 1-8, 10, 12-33, 35-40, 42, and 44-74 stand provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-59 of co-pending U.S. Patent Application No. 10/659,862. The rejection of claims 1-8, 10, 12-33, 35-40, 42, and 44-74 under the judicially-created doctrine of obviousness-type double patenting is being appealed.

#### **IV. STATUS OF AMENDMENTS**

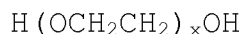
No amendments have been filed after the final rejection.

#### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The following summary correlates claim elements to specific embodiments described in the application specification, but does not in any manner limit claim interpretation. Rather, the following summary is provided only to facilitate the Board's understanding of the subject matter of this appeal.

With reference to the present specification, independent claim 1 is directed to an absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition. See Specification at paragraph [0016] of the published application US 2005/0101927. The moisturizing and lubricating composition comprises: from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight)

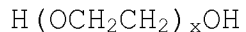
to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent. See Specification at paragraphs [0050], [0059], [0060], [0065], and [0074]. No more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature. See Specification at paragraph [0068]. At least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C. See Specification at paragraph [0069]. The immobilizing agent is a high molecular weight polyethylene glycol having the formula:



wherein x is the degree of ethoxylation and is an average value of at least about 20 moles. See Specification at paragraphs [0061] and [0062]. The moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C. See Specification at paragraph [0043]. The antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetylcysteine, proanthocyanidins, and mixtures thereof. See Specification at paragraph [0074].

Independent claim 32 is directed to an absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition. See Specification at paragraph [0016]. The moisturizing and lubricating composition comprises: from about 1% (by weight) to about 40% (by weight) of a silicone,

from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and a dispersing agent. See Specification at paragraphs [0050], [0051], [0059], [0060], [0065], [0066], and [0074]. No more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature. See Specification at paragraph [0068]. At least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C. See Specification at paragraph [0069]. The immobilizing agent is a high molecular weight polyethylene glycol having the formula:



wherein x is the degree of ethoxylation and is an average value of at least about 20 moles. See Specification at paragraphs [0061] and [0062]. The moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C. See Specification at paragraph [0043]. The antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetylcysteine, proanthocyanidins, and mixtures thereof. See Specification at paragraph [0074].

Independent claim 62 is directed to an absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition. See Specification at paragraph [0016].

The moisturizing and lubricating composition comprises from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent. See Specification at paragraphs [0050], [0059], [0060], [0065], and [0074]. No more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature. See Specification at paragraph [0068]. At least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C. See Specification at paragraph [0069]. The immobilizing agent is a high molecular weight polyethylene glycol selected from the group consisting of PEG 3350, PEG 6000, PEG 8000, and PEG 10,000. See Specification at paragraph [0062]. The moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C. See Specification at paragraph [0043]. The antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof. See Specification at paragraph [0074].

Independent claim 70 is directed to an absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition. See Specification at paragraph [0016]. The moisturizing and lubricating composition comprises from



about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent. See Specification at paragraphs [0050], [0059], [0060], [0065], and [0074]. No more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature. See Specification at paragraph [0068]. At least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C. See Specification at paragraph [0069]. The humectant is selected from the group consisting of N-Acetyl ethanolamine, urocanic acid, aloe vera gel, arginine PCA, chitosan PCA, copper PCA, corn glycerides, dimethyl imidazolidinone, fructose, glucamine, glucose, glucose glutamate, glucuronic acid, glutamic acid, glycereth-7, glycereth-12, glycereth-20, glycereth-26, honey, hydrogenated honey, hydrogenated starch hydrolysates, hydrolyzed corn starch, lactamide MEA, lactic acid, lactose lysine PCA, mannitol, methyl gluceth-10, methyl gluceth-20, PCA, PEG-2 lactamide, PEG-10 propylene glycol, polyamino sugar condensate, potassium PCA, propylene glycol citrate, polyamino acid, polysaccharide, saccharide hydrolysate, saccharide isomerate, sodium aspartate, sodium lactate, sodium PCA, sorbitol, TEA-lactate, TEA-PCA, Urea, Xylitol, and mixtures thereof. See Specification at paragraph [0059]. The moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C. See Specification at paragraph [0043]. The antioxidant is

selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof. See Specification at paragraph [0074].

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Appellants appeal the following rejections:

A. Applicants appeal the rejection of Claims 1-8, 10, 12-17, 20-22, 25-30, 32, 33, 35-40, 42, 44-47, 50-55, 58-60, 62-64, 66, 68, and 70-74 under 35 U.S.C. § 103(a) as being obvious over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195).

B. Applicants appeal the rejection of Claims 1, 23, 24, 32, 56, 57, 62, and 67 under 35 U.S.C. § 103(a) as being obvious over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195) and Bowser, et al. (U.S. 5,342,976).

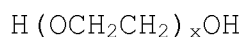
C. Applicants appeal the rejection of Claims 1, 31, 61, and 69 under 35 U.S.C. § 103(a) as being obvious over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195) and Vega (U.S. 6,153,209).

D. Applicants appeal the provisional rejection of claims 1-8, 10, 12-33, 35-40, 42, and 44-47 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of co-pending U.S. Patent Application No. 10/659,967.

## VII. ARGUMENT

A. Claims 1-8, 10, 12-17, 20-22, 25-30, 32, 33, 35-40, 42, 44-47, 50-55, 58-60, 62-64, 66, 68, and 70-74 are patentable over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195)

Claim 1 is directed to an absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition. The moisturizing and lubricating composition comprises: from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent. No more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature. At least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C. The immobilizing agent is a high molecular weight polyethylene glycol having the formula:



wherein x is the degree of ethoxylation and is an average value of at least about 20 moles. The moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C. The antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT),

carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmaric acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthrocyanidins, and mixtures thereof.

Krzysik, et al. discloses **skin barrier enhancing** absorbent tissues comprising a lipid-enriched melted hydrophilic composition. The composition comprises a hydrophilic solvent, a high molecular weight polyethylene glycol, a fatty alcohol (C<sub>14</sub>-C<sub>30</sub> or greater), a humectant, an oil-in-water emulsifying surfactant having an HLB range greater than 7, a sterol, and a natural fat or oil. Specifically, in one exemplary embodiment, the composition comprises from about 10 to about 95 weight percent hydrophilic solvent, from about 5 to about 95 weight percent high molecular weight polyethylene glycol (preferably having a molecular weight of 720 or greater), from about 1 to about 30 weight percent of humectant, from about 1 to about 20 weight percent emulsifying surfactant having an HLB range greater than 7, from about 0.1 to about 10 weight percent of sterol or sterol derivative, and from about 0.1 to about 30 weight percent of natural fats or oils. Additional ingredients, such as antioxidants, may be added to the composition. After the composition is applied to a tissue, the composition is resolidified to form a distribution, preferably a uniform distribution, of solid deposits on the surface of the tissue.

Significantly, Krzysik, et al. fail to teach or suggest from about 0.05% (by weight) to about 5% (by weight) of an antioxidant selected from the group consisting of butylated hydroxyanisole (BHA), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmaric acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthrocyanidins, and mixtures thereof, as required by Applicants' claims. More particularly,

Krzysik, et al. fails to teach any amount of any specific antioxidant in their composition.

Recognizing the above deficiencies, the Office combines Gatto, et al. and Bartels with Krzysik, et al. to arrive at each and every limitation of Applicants' claimed invention. Gatto, et al., disclose an absorbent article having a stable skin care composition having skin care ingredients for providing visible skin benefits to diapered skin. The skin care composition contains at least one skin care ingredient and one rheological agent for stabilizing the composition. Gatto, et al., disclose that BHT is one of several ingredients that may be incorporated as a preservative<sup>1</sup>.

Bartels discloses a topical composition and method for treatment of the symptoms of diaper rashes and skin irritations caused by acidic secretions.<sup>2</sup> The topical composition comprises: a pH-raising ingredient; an anhydrous base ointment; polysorbate 80; a pharmaceutically acceptable diluent; and butylated hydroxyltoluene (BHT).<sup>3</sup> Embodiments of Bartels include a cream, dusting powder, spray, bath soak and effervescent tablet, and a bodyside diaper liner.<sup>4</sup>

In order for the Office to show a *prima facie* case of obviousness, M.P.E.P. § 2142 requires a clear articulation of the reasons why the claimed invention would have been obvious. Specifically, to reject a claim based on this rationale, the Office must articulate the following: (1) a finding that there was some teaching, suggestion, or motivation, either in the reference itself or in the knowledge generally available to one

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<sup>1</sup> See, Gatto, et al., column 24, line 65 - column 25, line 4.

<sup>2</sup> Bartels, at abstract.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

of ordinary skill in the art, to modify the reference or to combine reference teachings to arrive at each and every limitation of the claimed invention; (2) a finding that there was reasonable expectation of success; and (3) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.<sup>5</sup> The Office has failed to meet its burden under number (1) above, as there is no apparent reason for one skilled in the art to combine and/or modify the cited references to arrive at each and every limitation. It simply would not have been obvious to one skilled in the art to arrive at Applicants' claimed combinations.

Specifically, as noted in M.P.E.P. § 2142, in establishing obviousness, the Office must show references that teach all of the claimed limitations along with some reason, either in the references themselves or in knowledge generally available to one skilled in the art, to modify and/or combine the references and arrive at the claimed subject matter. The mere fact that the references can be modified and combined to arrive at the claimed subject matter does not render the resultant combination obvious, unless the prior art also suggests a reason for the combination. *In re Mill*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Applicants respectfully submit that a close reading of the cited references clearly indicates that one skilled in the art would not have been so motivated and, without Applicants' disclosure as a blueprint (which the Office had the benefit of utilizing), such a combination of the formulations of the Krzysik, et al., Gatto, et al., and Bartels references would not

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<sup>5</sup> *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (2966)

have been made.<sup>6</sup> Specifically, a close reading of Gatto, et al. and Bartels would direct one skilled in the art away from a combination with Krzysik, et al. More particularly, the Krzysik, et al. reference focuses on a product that transfers a formulation to the user's skin to provide, maintain, and aid recovery of the skin barrier function<sup>7</sup>; that is, the formulation of Krzysik, et al. is specifically a skin barrier enhancing formulation. Gatto, et al. and Bartels, conversely, teach away from barrier-type creams and formulations. Specifically, Gatto, et al. discloses that creams and lotions for providing physical barrier protection are occlusive and not very effective once a full blown case of inflammation or dermatitis has developed<sup>8</sup>, and as such, its invention uses a skin care composition having skin care ingredients for providing visible skin benefits to diapered skin (i.e., providing smooth, silky, non-grainy skin feel to minimize abrasion of sensitive or compromised skin having chronic conditions such as chaffing, dryness, or rashes)<sup>9</sup> and at least one rheological agent for stabilizing the composition such

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<sup>6</sup> M.P.E.P. § 2142 further provides that in order to reach a proper determination under 35 U.S.C. §103(a), the Examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. Knowledge of Applicants' disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences." The tendency to resort to "hindsight" based upon Applicants' disclosure is often difficult to avoid due to the very nature of the examination process. However, as stated by the Federal Circuit, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. Grain Processing Corp. v. American-Maize-Products, Co., 840 F.2d 902, 904 (Fed. Cir. 1988).

<sup>7</sup> Krzysik, page 2, lines 65-68 and page 3, lines 70-91.

<sup>8</sup> See, Gatto, col. 1, lines 52-58.

<sup>9</sup> Id., col. 7, lines 21-24.

that agglomeration, stratification, and/or settling of the composition are minimized. Further, Bartels mentions that its invention "does **not** purport or attempt to be a barrier cream (emphasis added),"<sup>10</sup> and the invention is looking for a "method besides barrier creams"<sup>11</sup> (emphasis added) to treat diaper rashes. Thus, why would one having ordinary skill in the art interested in improving barrier function, as Krzysik, et al. is attempting to do, look to references that specifically mention the undesirability of simply enhancing barrier function? Put another way, if Gatto, et al. and Bartels are specifically looking for different methods as an alternative to barrier creams, why would one skilled in the art looking to improve barrier function, be motivated to use the compositions of Gatto, et al. and Bartels? Applicants' respectfully assert that it would simply not have been obvious to one having ordinary skill in the art to combine Krzysik, et al., Gatto, et al., and Bartels.

Moreover, the common sense of one ordinarily skilled in the art would not have provided a reason to combine the Krzysik, et al. reference, the Gatto, et al. reference, and the Bartels reference to arrive at Applicants' composition of claim 1. Initially, Krzysik, et al. only generally disclose the inclusion of an antioxidant in a list of twenty-four optional ingredients, and nowhere disclose a suitable amount. As such, why would one skilled in the art be motivated to include the **optional** antioxidant of Krzysik, et al. in Applicants' claimed amounts, and further, why would one be motivated to specifically choose an antioxidant as required by Applicants' amended claim 1 when Krzysik, et al. nowhere mention any specific antioxidants? One

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<sup>10</sup> Bartels, para. [0033].

<sup>11</sup> *Id.* at para. [0011].



skilled in the art simply would not and could not be so motivated.

With all due respect, it appears that the Office has used impermissible hindsight analysis and reconstruction when combining the Krzysik, et al., Gatto, et al., and Bartels references, which the Federal Circuit has routinely warned against. What is important is that there is no guidance provided by the cited references to arrive at such a specific combination.

Based on the foregoing, claim 1 is patentable over the cited references. Claims 2-8, 10, 12-17, 20-22, 25-30, and 72 depend from claim 1 and are therefore patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional elements they require.

Independent claim 32 is similar to claim 1 and further requires the moisturizing and lubricating composition to comprise a dispersing agent. As such, claim 32 is patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional limitations it requires.

Claims 33, 35-40, 42, 44-47, 50-55, 58-60, and 73 depend directly or indirectly from claim 32 and are therefore patentable over the cited references for the same reasons as set forth above for claim 32, as well as for the additional elements they require.

Claim 62 is similar to claim 1 and further requires the immobilizing agent to be a high molecular weight polyethylene glycol selected from the group consisting of PEG 3350, PEG 6000, PEG 8000, and PEG 10,000. As such, claim 62 is patentable over the cited references for the same reasons as claim 1, as well as for the additional limitations it requires.

Claims 63, 64, 66, 68, and 74, which depend from claim 62, are patentable over the cited references for the same reasons as claim 62, as well as for the additional limitations they require.

Claim 70 is similar to claim 1 and further requires the humectant to be selected from the group consisting of N-Acetyl ethanolamine, urocanic acid, aloe vera gel, arginine PCA, chitosan PCA, copper PCA, corn glycerides, dimethyl imidazolidinone, fructose, glucamine, glucose, glucose glutamate, glucuronic acid, glutamic acid, glycereth-7, glycereth-12, glycereth-20, glycereth-26, honey, hydrogenated honey, hydrogenated starch hydrolysates, hydrolyzed corn starch, lactamide MEA, lactic acid, lactose lysine PCA, mannitol, methyl gluceth-10, methyl gluceth-20, PCA, PEG-2 lactamide, PEG-10 propylene glycol, polyamino sugar condensate, potassium PCA, propylene glycol citrate, polyamino acid, polysaccharide, saccharide hydrolysate, saccharide isomerate, sodium aspartate, sodium lactate, sodium PCA, sorbitol, TEA-lactate, TEA-PCA, Urea, Xylitol, and mixtures thereof. Claim 70 is thus patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional limitations it requires.

Claim 71, which depends from claim 70, is patentable over the cited references for the same reasons as claim 70, as well as for the additional limitations it requires.

B. Claims 1, 23, 24, 32, 56, 57, 62, and 67 are patentable over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195) and Bowser, et al. (U.S. 5,342,976)

Claim 1 is discussed above.

Krzysik, et al., Gatto, et al. and Bartels are discussed above. Significantly, as noted above, there is no apparent reason for one skilled in the art to modify and/or combine the Krzysik, et al., Gatto, et al. and Bartels references to arrive at each and every element of Applicants' claimed invention. Particularly, as Krzysik, et al. focus on a composition for aiding in the recovery of skin barrier function, and Gatto, et al. and Bartels teach away from barrier-type creams and formulations, not only would one skilled in the art have no reason to combine the cited references, but would actually be discouraged from doing so. Bowser, et al. fails to overcome the above shortcomings.

Bowser, et al. is directed to a composition suitable for topical application to human skin. The composition comprises an active ingredient that can control skin barrier functions; particularly, the active ingredient can moisturize and treat skin surfaces that have become excessively dry, fissured, eroded, or otherwise damaged. One such active ingredient disclosed by Bowser, et al. is a ceramide. In one embodiment, the compositions can be used in a liquid-impregnated fabric, such as a tissue wipe.

Significantly, Bowser, et al. does not overcome the shortcomings of the combination of the Krzysik, et al., Gatto, et al., and Bartels references. Specifically, similar to the Krzysik, et al. reference, the Bowser, et al. reference is

directed to a composition including an active ingredient that can control skin barrier functions. As such, what reason would one skilled in the art have to combine the Bowser, et al. and Krzysik, et al. references with the Gatto, et al. and Bartels references, which are specifically looking for different methods as an alternative to barrier creams? One skilled in the art simply would have no reason to do so. As such, claim 1 is submitted to be patentable over the cited references.

Claims 23 and 24 depend from claim 1 and are therefore patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional elements they require.

Independent claim 32 is similar to claim 1 and further requires the moisturizing and lubricating composition to comprise a dispersing agent. As such, claim 32 is patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional limitations it requires.

Claims 56 and 57 depend directly or indirectly from claim 32 and are therefore patentable over the cited references for the same reasons as set forth above for claim 32 as well as for the additional elements they require.

Claim 62 is similar to claim 1 and further requires the immobilizing agent to be a high molecular weight polyethylene glycol selected from the group consisting of PEG 3350, PEG 6000, PEG 8000, and PEG 10,000. As such, claim 62 is patentable over the cited references for the same reasons as claim 1, as well as for the additional limitations it requires.

Claim 67 which depends from claim 62, is patentable over the cited references for the same reasons as claim 62, as well as for the additional limitations it requires.

C. Claims 1, 31, 61, and 69 are patentable over Krzysik, et al. (WO 00/64409) in view of Gatto (U.S. 6,570,054) and further in view of Bartels (U.S. 2003/0157195) and Vega (U.S. 6,153,209)

Claim 1 is discussed above.

The Krzysik, et al., Gatto, et al. and Bartels references are discussed above. Significantly, as noted above, there is no apparent reason for one skilled in the art to modify and/or combine the Krzysik, et al., Gatto, et al. and Bartels references to arrive at each and every element of Applicants' claimed invention, and in particular, to arrive at a composition including from about 0.05% (by weight) to about 5% (by weight) of an antioxidant selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, liponic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof. Specifically, as Krzysik, et al. focus on a composition for aiding in the recovery of skin barrier function, and Gatto, et al. and Bartels teach away from barrier-type creams and formulations, not only would one skilled in the art have no reason to combine these cited references, but would actually be discouraged from doing so. Vega, et al. fails to overcome this shortcoming.

Specifically, Vega, et al. is directed to absorbent articles having a skin care composition deposited on at least a portion of the article. The skin care composition is a breathable, barrier protectant which can be immobilized on the article and is transferable to the wearer's skin via contact, normal wearer motion, and/or body heat. The skin care

composition may comprise an emollient an immobilizing agent, and optionally a humectant. The composition may also include an antioxidant, such as ascorbic acid, tocopherol, tocopherol acetate, and mixed tocopherol. The absorbent product disclosed by Vega, et al. is a diaper (col. 1, line 7).

Significantly, however, Vega, et al. fail to overcome the shortcomings discussed above of the Krzysik, et al., Gatto, et al., and Bartels references. Specifically, although Vega, et al. do disclose the inclusion of an antioxidant in their skin care compositions, Vega, et al. fail to disclose a composition comprising from about 0.05% (by weight) to about 5% (by weight) of any of the antioxidants required by Applicants' claimed invention. Accordingly, as there is no reason to modify or combine the Krzysik, et al., Gatto, et al., and Bartels references to arrive at a composition including any of the antioxidants required by Applicants' claimed invention, and further, the Vega, et al. reference no where discloses a composition that includes the antioxidants required by Applicants' claimed invention in Applicants' claimed amounts, there is no reason for one skilled in the art to modify and/or combine the cited references to arrive at Applicants' claimed invention. As such, claim 1 is submitted to be patentable over the cited references.

Claim 31 depends from claim 1 and is therefore patentable over the cited references for the same reasons as set forth above for claim 1, as well as for the additional elements it requires.

Independent claim 32 is similar to claim 1 and further requires the moisturizing and lubricating composition to comprise a dispersing agent. As such, claim 32 is patentable over the cited references for the same reasons as set forth

above for claim 1, as well as for the additional limitations it requires. Claim 61 depends from claim 32 and is therefore patentable over the cited references for the same reasons as set forth above for claim 32 as well as for the additional elements it requires.

Claim 62 is similar to claim 1 and further requires the immobilizing agent to be a high molecular weight polyethylene glycol selected from the group consisting of PEG 3350, PEG 6000, PEG 8000, and PEG 10,000. As such, claim 62 is patentable over the cited references for the same reasons as claim 1, as well as for the additional limitations it requires. Claim 69 which depends from claim 62, is patentable over the cited references for the same reasons as claim 62, as well as for the additional limitations it requires.

D. Claims 1-8, 10, 12-33, 35-40, 42, and 44-74 are patentable under the judicially-created doctrine of obviousness-type double patenting over claims 1-59 of co-pending U.S. Patent Application No. 10/659,862.

Claims 1-8, 10, 12-33, 35-40, 42, and 44-74 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of co-pending U.S. Patent Application No. 10/659,862.

Applicants respectfully call the Office's attention to MPEP §804, I.B.1., which notes that if "provisional" obviousness-type double patenting rejections in two applications are the only rejections remaining in those applications and both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The obviousness-

type double patenting rejection in the base application can be withdrawn without a terminal disclaimer, while the obviousness-type double patenting rejection in the improvement application cannot be withdrawn without a terminal disclaimer. The present application and copending Application No. 10/659,862 were both filed on September 11, 2003. As this provisional rejection is not the only rejection in the present application, Applicants would like to delay responding to this rejection. If the Office has any questions please contact Mr. Christopher M. Goff at 314-621-5070.

Even if upon entry of this Letter To Patent And Trademark Office, the 103(a) rejections are overcome (which Applicants believe that they have) and the provisional obviousness-type double patenting rejection is the only rejection remaining in the present application, the present rejection is premature. As stated in MPEP §804, I.B.1., since it is not evident which of the pending applications the Office would determine to be the "base application," any action with regard to the present rejection is premature, until such a determination has been made.



**CONCLUSION**

For the reasons stated above, Appellants respectfully request that the Examiner's rejections be reversed and that claims 1-8, 10, 12-17, 20-33, 35-40, 42, 44-47, 50-64, and 66-74 be allowed. The Commissioner is hereby authorized to charge any fees which may be required to Deposit Account Number 01-2384.

Respectfully submitted,

/Christopher M. Goff/  
Christopher M. Goff, Reg. No. 41,785  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, 26th Floor  
St. Louis, Missouri 63102  
(314) 621-5070

CMG/JMB/EMF

Via EFS

**VIII.      CLAIMS APPENDIX**

1. An absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition, said moisturizing and lubricating composition comprising from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent wherein no more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature, and wherein at least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C, wherein the immobilizing agent is a high molecular weight polyethylene glycol having the formula:



wherein x is the degree of ethoxylation and is an average value of at least about 20 moles, wherein the moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C, and wherein the antioxidant is selected from the group

consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof.

2. The absorbent product as set forth in claim 1 wherein the emollient is selected from the group consisting of petroleum based emollients, fatty acids, fatty acid esters, vegetable oils, hydrogenated vegetable oils, alkyl ethoxylates, fatty alcohols, silicones, and combinations thereof.

3. The absorbent product as set forth in claim 2 wherein the silicones are selected from the group consisting of dimethicone, dimethoconol, PEG dimethicone, alkyl silicones, phenyl silicones, silicone phospholipids, and combinations thereof.

4. The absorbent product as set forth in claim 1 wherein the humectant is present in an amount of from about 5% (by weight) to about 15% (by weight).

5. The absorbent product as set forth in claim 1 wherein the humectant is selected from the group consisting of N-Acetyl ethanolamine, urocanic acid, aloe vera gel, arginine PCA, chitosan PCA, copper PCA, corn glycerides, dimethyl imidazolidinone, fructose, glucamine, glucose, glucose glutamate, glucuronic acid, glutamic acid, glycereth-7, glycereth-12, glycereth-20, glycereth-26, glycerin, honey, hydrogenated honey, hydrogenated starch hydrolysates, hydrolyzed corn starch, lactamide MEA, lactic acid, lactose lysine PCA, mannitol, methyl gluceth-10, methyl gluceth-20, PCA, PEG-2 lactamide, PEG-10 propylene glycol, polyamino sugar condensate, potassium PCA, propylene glycol, propylene glycol citrate, polyamino acid, polysaccharide, saccharide hydrolysate, saccharide isomerate, sodium aspartate, sodium lactate, sodium PCA, sorbitol, TEA-lactate, TEA-PCA, Urea, Xylitol, and mixtures thereof.

6. The absorbent product as set forth in claim 1 wherein the humectant is selected from the group consisting of polyols, glycerine, ethoxylated glycerine, polyethylene glycols, hydrogenated starch hydrolysates, propylene glycol, silicone glycol, pyrrolidone carboxylic acid, and mixtures thereof.

7. The absorbent product as set forth in claim 1 wherein the humectant is glycerin.

8. The absorbent product as set forth in claim 1 wherein the immobilizing agent is present in an amount of from about 40% (by weight) to about 70% (by weight).

10. The absorbent product as set forth in claim 1 wherein the polyethylene glycol is selected from the group consisting of PEG 1000, PEG 3350, PEG 6000, PEG 8000, and PEG 10,000.

12. The absorbent product as set forth in claim 1 wherein the compatibilizing agent is selected from the group consisting of propylene glycol, butylene glycol, 1,3 butylene glycol, low molecular weight polyethylene glycols (molecular weights of less than about 720 and liquid at room temperature), methoxyisopropanol, dipropylene glycol propyl ether, dipropylene glycol butyl ether, dipropylene glycol, methyl propanediol, and soluble/dispersible polypropylene glycols, and combinations thereof.

13. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition further comprises a dispersing agent.

14. The absorbent product as set forth in claim 13 wherein the dispersing agent is selected from the group consisting of polyether ethoxylated/propoxylated modified polydimethylsiloxanes which are fully or partially compatible with polydimethylsiloxanes, silicone polyethers having at least 30% siloxane, between 10% and 40% ethoxylation and between 0% and 40% propoxylation and combinations thereof.

15. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition further comprises a skin barrier enhancing agent in an amount of from about 0.1% (by weight) to about 30% (by weight).

16. The absorbent product as set forth in claim 15 wherein the skin barrier enhancing agent is selected from the group consisting of a fat and an oil.

17. The absorbent product as set forth in claim 15 wherein the skin barrier enhancing agent is selected from the group

consisting of apricot kernel oil, avocado oil, babassu oil, borage seed oil, butter, C<sub>12</sub>-C<sub>18</sub> acid triglyceride, camellia oil, canola oil, caprylic/capric/lauric triglyceride, caprylic/capric/linoleic triglyceride, caprylic/capric/stearic triglyceride, caprylic/capric triglyceride, carrot oil, cashew nut oil, castor oil, cherry pit oil, chia oil, cocoa butter, coconut oil, cod liver oil, corn germ oil, corn oil, cottonseed oil, C<sub>10</sub>-C<sub>18</sub> triglycerides, egg oil, epoxidized soybean oil, evening primrose oil, glyceryl triacetyl hydroxystearate, glyceryl triacetyl ricinoleate, glycosphingolipids, grape seed oil, hazelnut oil, human placental lipids, hybrid safflower oil, hybrid sunflower seed oil, hydrogenated castor oil, hydrogenated castor oil laurate, hydrogenated coconut oil, hydrogenated cottonseed oil, hydrogenated C<sub>12</sub>-C<sub>18</sub> triglycerides, hydrogenated fish oil, hydrogenated lard, hydrogenated menhaden oil, hydrogenated mink oil, hydrogenated orange roughy oil, hydrogenated palm kernel oil, hydrogenated palm oil, hydrogenated peanut oil, hydrogenated shark liver oil, hydrogenated soybean oil, hydrogenated tallow, hydrogenated vegetable oil, lard, lauric/palmitic/oleic triglyceride, lesquerella oil, linseed oil, macadamia nut oil, maleated soybean oil, meadowfoam seed oil, menhaden oil, mink oil, moringa oil, mortierella oil, neatsfoot oil, oleic/linoleic

triglyceride, oleic/palmitic/lauric/myristic/linoleic triglyceride, oleostearine, olive husk oil, olive oil, omental lipids, orange roughy oil, palm kernel oil, palm oil, peach kernet oil, peanut oil, pengawar djambi oil, pentadesma butter, phospholipids, pistachio nut oil, placental lipids, rapeseed oil, rice bran oil, safflower oil, sesame oil, shark liver oil, shea butter, soybean oil, sphingolipids, sunflower seed oil, sweet almond oil, tall oil, tallow, tribehenin, tricaprin, tricaprylin, triheptanoin, trihydroxymethoxystearin, trihydroxystearin, triisononanoin, triisostearin, trilaurin, trilinolein, trilinolenin, trimyristin, trioctanoin, triolein, tripalmitin, trisebacin, tristearin, triundecanoin, vegetable oil, walnut oil, wheat bran lipids, wheat germ oil, zadoary oil, and mixtures thereof.

20. The absorbent product as set forth in claim 1 wherein the antioxidant is selected from the group consisting of butylated hydroxytoluene, gamma oryzanol, and mixtures thereof.

21. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition further comprises a sterol or sterol derivative in an amount of from about 0.1% (by weight) to about 10% (by weight).



22. The absorbent product as set forth in claim 21 wherein the sterol or sterol derivative is selected from the group consisting of cholesterol sulfate, cholesterol, sitosterol, stigmasterol, ergosterol, C<sub>10</sub>-C<sub>30</sub> cholesterol/lanosterol esters, cholecalciferol, cholesteryl hydroxystearate, cholesteryl isostearate, cholesteryl stearate, 7-dihydrocholesterol, dihydrocholesterol, dihydrocholesteryl octyldecanoate, dihydrolanosterol, dihydrolanosteryl octyldecanoate, ergocalciferol, tall oil sterol, soy sterol acetate, lanosterol, soy sterol, avocado sterols, cholesterol esters, sterol esters, and mixtures thereof.

23. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition further comprises a ceramide.

24. The absorbent product as set forth in claim 23 wherein the ceramide is glucosylceramide.

25. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition further comprises one or more components selected from the group consisting of

emulsifiers, surfactants, water, viscosity modifiers, pH modifiers, enzyme inhibitors/inactivators, suspending agents, pigments, dyes colorants, natural moisturizing factors, buffers, perfumes, antibacterial actives, antifungal actives, antiviral actives, pharmaceutical actives, film formers, deodorants, opacifiers, astringents, solvents, organic acids, preservatives, drugs, vitamins, aloe vera, and panthenol.

26. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition has a melting point of from about 55°C to about 75°C.

27. The absorbent product as set forth in claim 1 wherein the moisturizing and lubricating composition has a penetration hardness of from about 1 millimeter to about 20 millimeters.

28. The absorbent product as set forth in claim 1 wherein at least about 90% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

29. The absorbent product as set forth in claim 1 wherein at least about 94% (by weight) of the components of the

moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

30. The absorbent product as set forth in claim 1 wherein at least about 97% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

31. The absorbent product as set forth in claim 1 wherein the absorbent product is selected from the group consisting of diapers, feminine hygiene pads, pantliners, micro-liners, interlabial pads, thong pads, tampons, adult incontinence garments, training pants and disposable swimming pants.

32. An absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition comprising from about 1% (by weight) to about 40% (by weight) of a silicone, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and a dispersing agent wherein no more than about 50% (by weight) of

the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature, and wherein at least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C, and wherein the immobilizing agent is a high molecular weight polyethylene glycol having the formula:



wherein x is the degree of ethoxylation and is an average value of at least about 20 moles, wherein the moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C, and wherein the antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof.

33. The absorbent product as set forth in claim 32 wherein the weight ratio of silicone to dispersing agent is at least about 1:1.

35. The absorbent product as set forth in claim 32 wherein the silicone is selected from the group consisting of dimethicone, dimethoconol, PEG dimethicone, alkyl silicones, phenyl silicones, silicone phospholipids, and combinations thereof.

36. The absorbent product as set forth in claim 32 wherein the humectant is present in an amount of from about 5% (by weight) to about 15% (by weight).

37. The absorbent product as set forth in claim 32 wherein the humectant is selected from the group consisting of N-Acetyl ethanolamine, urocanic acid, aloe vera gel, arginine PCA, chitosan PCA, copper PCA, corn glycerides, dimethyl imidazolidinone, fructose, glucamine, glucose, glucose glutamate, glucuronic acid, glutamic acid, glycereth-7, glycereth-12, glycereth-20, glycereth-26, glycerin, honey, hydrogenated honey, hydrogenated starch hydrolysates, hydrolyzed corn starch, lactamide MEA, lactic acid, lactose lysine PCA, mannitol, methyl gluceth-10, methyl gluceth-20, PCA, PEG-2 lactamide, PEG-10 propylene glycol, polyamino sugar condensate, potassium PCA, propylene glycol, propylene glycol citrate, polyamino acid, polysaccharide, saccharide hydrolysate,

saccharide isomerate, sodium aspartate, sodium lactate, sodium PCA, sorbitol, TEA-lactate, TEA-PCA, Urea, Xylitol, and mixtures thereof.

38. The absorbent product as set forth in claim 32 wherein the humectant is selected from the group consisting of polyols, glycerine, ethoxylated glycerine, polyethylene glycols, hydrogenated starch hydrolsates, propylene glycol, silicone glycol, pyrrolidone carboxylic acid, and mixtures thereof.

39. The absorbent product as set forth in claim 32 wherein the humectant is glycerin.

40. The absorbent product as set forth in claim 32 wherein the immobilizing agent is present in an amount of from about 40% (by weight) to about 70% (by weight).

42. The absorbent product as set forth in claim 32 wherein the polyethylene glycol is selected from the group consisting of PEG 1000, PEG 3350, PEG 6000, PEG 8000, and PEG 10,000.

44. The absorbent product as set forth in claim 32 wherein the compatibilizing agent is selected from the group consisting

of propylene glycol, butylene glycol, 1,3 butylene glycol, low molecular weight polyethylene glycols (molecular weights of less than about 720 and liquid at room temperature), methoxyisopropanol, dipropylene glycol propyl ether, dipropylene glycol butyl ether, dipropylene glycol, methyl propanediol, and soluble/dispersible polypropylene glycols, and combinations thereof.

45. The absorbent product as set forth in claim 32 wherein the moisturizing and lubricating composition further comprises a skin barrier enhancing agent in an amount of from about 0.1% (by weight) to about 30% (by weight).

46. The absorbent product as set forth in claim 45 wherein the skin barrier enhancing agent is selected from the group consisting of a fat and an oil.

47. The absorbent product as set forth in claim 45 wherein the skin barrier enhancing agent is selected from the group consisting of apricot kernel oil, avocado oil, babassu oil, borage seed oil, butter, C<sub>12</sub>-C<sub>18</sub> acid triglyceride, camellia oil, canola oil, caprylic/capric/lauric triglyceride, caprylic/capric/linoleic triglyceride, caprylic/capric/stearic

triglyceride, caprylic/capric triglyceride, carrot oil, cashew nut oil, castor oil, cherry pit oil, chia oil, cocoa butter, coconut oil, cod liver oil, corn germ oil, corn oil, cottonseed oil, C<sub>10</sub>-C<sub>18</sub> triglycerides, egg oil, epoxidized soybean oil, evening primrose oil, glyceryl triacetyl hydroxystearate, glyceryl triacetyl ricinoleate, glycosphingolipids, grape seed oil, hazelnut oil, human placental lipids, hybrid safflower oil, hybrid sunflower seed oil, hydrogenated castor oil, hydrogenated castor oil laurate, hydrogenated coconut oil, hydrogenated cottonseed oil, hydrogenated C<sub>12</sub>-C<sub>18</sub> triglycerides, hydrogenated fish oil, hydrogenated lard, hydrogenated menhaden oil, hydrogenated mink oil, hydrogenated orange roughy oil, hydrogenated palm kernel oil, hydrogenated palm oil, hydrogenated peanut oil, hydrogenated shark liver oil, hydrogenated soybean oil, hydrogenated tallow, hydrogenated vegetable oil, lard, lauric/palmitic/oleic triglyceride, lesquerella oil, linseed oil, macadamia nut oil, maleated soybean oil, meadowfoam seed oil, menhaden oil, mink oil, moringa oil, mortierella oil, neatsfoot oil, oleic/linoleic triglyceride, oleic/palmitic/lauric/myristic/linoleic triglyceride, oleostearine, olive husk oil, olive oil, omental lipids, orange roughy oil, palm kernel oil, palm oil, peach kernet oil, peanut oil, pengawar djambi oil, pentadesma butter,



phospholipids, pistachio nut oil, placental lipids, rapeseed oil, rice bran oil, safflower oil, sesame oil, shark liver oil, shea butter, soybean oil, sphingolipids, sunflower seed oil, sweet almond oil, tall oil, tallow, tribehenin, tricaprin, tricaprylin, triheptanoin, trihydroxymethoxystearin, trihydroxystearin, triisononanoin, triisostearin, trilaurin, trilinolein, trilinolenin, trimyristin, trioctanoin, triolein, tripalmitin, trisebacin, tristearin, triundecanoin, vegetable oil, walnut oil, wheat bran lipids, wheat germ oil, zadoary oil, and mixtures thereof.

50. The absorbent product as set forth in claim 32 wherein the antioxidant is selected from the group consisting of butylated hydroxytoluene, gamma oryzanol, and mixtures thereof.

51. The absorbent product as set forth in claim 32 wherein the moisturizing and lubricating composition further comprises a sterol or sterol derivative in an amount of from about 0.1% (by weight) to about 10% (by weight).

52. The absorbent product as set forth in claim 51 wherein the sterol or sterol derivative is selected from the group consisting of cholesterol sulfate, cholesterol, sitosterol,

stigmasterol, ergosterol, C<sub>10</sub>-C<sub>30</sub> cholesterol/lanosterol esters, cholecalciferol, cholesteryl hydroxystearate, cholesteryl isostearate, cholesteryl stearate, 7- dihydrocholesterol, dihydrocholesterol, dihydrocholesteryl octyldecanoate, dihydrolanosterol, dihydrolanosteryl octyldecanoate, ergocalciferol, tall oil sterol, soy sterol acetate, lanosterol, soy sterol, avocado sterols, cholesterol esters, sterol esters, and mixtures thereof.

53. The absorbent product as set forth in claim 32 wherein the moisturizing and lubricating composition further comprises one or more components selected from the group consisting of emulsifiers, surfactants, water, viscosity modifiers, natural moisturizing factors, antiviral actives, pH modifiers, enzyme inhibitors/inactivators, suspending agents, pigments, dyes, colorants, buffers, perfumes, antibacterial actives, antifungal actives, pharmaceutical actives, film formers, deodorants, opacifiers, astringents, solvents, organic acids, preservatives, drugs, vitamins, aloe vera, and panthenol.

54. The absorbent product as set forth in claim 32 wherein the moisturizing and lubricating composition has a melting point of from about 55°C to about 75°C.

55. The absorbent product as set forth in claim 32 wherein the moisturizing and lubricating composition has a penetration hardness of from about 1 millimeter to about 20 millimeters.

56. The absorbent product as set forth in claim 32 further comprising a ceramide.

57. The absorbent product as set forth in claim 56 wherein the ceramide is glucosylceramide.

58. The absorbent product as set forth in claim 32 wherein at least about 90% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

59. The absorbent product as set forth in claim 32 wherein at least about 94% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

60. The absorbent product as set forth in claim 32 wherein at least about 97% (by weight) of the components of the

moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C.

61. The absorbent product as set forth in claim 32 wherein the absorbent product is selected from the group consisting of diapers, feminine hygiene pads, pantliners, micro-liners, interlabial pads, thong pads, tampons, adult incontinence garments, training pants and disposable swimming pants.

62. An absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition, said moisturizing and lubricating composition comprising from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent wherein no more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature, and wherein at least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about

45°C to about 80°C, wherein the immobilizing agent is a high molecular weight polyethylene glycol selected from the group consisting of PEG 3350, PEG 6000, PEG 8000, and PEG 10,000, wherein the moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C, and wherein the antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof.

63. The absorbent product as set forth in claim 62 wherein the moisturizing and lubricating composition further comprises a dispersing agent.

64. The absorbent product as set forth in claim 62 wherein the moisturizing and lubricating composition further comprises a skin barrier enhancing agent in an amount of from about 0.1% (by weight) to about 30% (by weight).

66. The absorbent product as set forth in claim 62 wherein the moisturizing and lubricating composition further comprises a

sterol or sterol derivative in an amount of from about 0.1% (by weight) to about 10% (by weight).

67. The absorbent product as set forth in claim 62 wherein the moisturizing and lubricating composition further comprises a ceramide.

68. The absorbent product as set forth in claim 62 wherein the moisturizing and lubricating composition further comprises one or more components selected from the group consisting of emulsifiers, surfactants, water, viscosity modifiers, pH modifiers, enzyme inhibitors/inactivators, suspending agents, pigments, dyes colorants, natural moisturizing factors, buffers, perfumes, antibacterial actives, antifungal actives, antiviral actives, pharmaceutical actives, film formers, deodorants, opacifiers, astringents, solvents, organic acids, preservatives, drugs, vitamins, aloe vera, and panthenol.

69. The absorbent product as set forth in claim 62 wherein the absorbent product is selected from the group consisting of diapers, feminine hygiene pads, pantliners, micro-liners, interlabial pads, thong pads, tampons, adult incontinence garments, training pants and disposable swimming pants.

70. An absorbent product comprising an absorbent substrate and a moisturizing and lubricating composition, said moisturizing and lubricating composition comprising from about 1% (by weight) to about 40% (by weight) of an emollient, from about 1% (by weight) to about 20% (by weight) of a humectant, from about 30% (by weight) to about 90% (by weight) an immobilizing agent, from about 0.05% (by weight) to about 5% (by weight) of an antioxidant, and from about 1% (by weight) to about 40% (by weight) of a compatibilizing agent wherein no more than about 50% (by weight) of the components are liquid at room temperature and no less than about 50% of the components are solid at room temperature, and wherein at least about 85% (by weight) of the components of the moisturizing and lubricating composition form a single phase at a temperature of from about 45°C to about 80°C, wherein the humectant is selected from the group consisting of N-Acetyl ethanolamine, urocanic acid, aloe vera gel, arginine PCA, chitosan PCA, copper PCA, corn glycerides, dimethyl imidazolidinone, fructose, glucamine, glucose, glucose glutamate, glucuronic acid, glutamic acid, glycereth-7, glycereth-12, glycereth-20, glycereth-26, honey, hydrogenated honey, hydrogenated starch hydrolysates, hydrolyzed corn starch, lactamide MEA, lactic acid, lactose lysine PCA,

mannitol, methyl gluceth-10, methyl gluceth-20, PCA, PEG-2 lactamide, PEG-10 propylene glycol, polyamino sugar condensate, potassium PCA, propylene glycol citrate, polyamino acid, polysaccharide, saccharide hydrolysate, saccharide isomerase, sodium aspartate, sodium lactate, sodium PCA, sorbitol, TEA-lactate, TEA-PCA, Urea, Xylitol, and mixtures thereof, wherein the moisturizing and lubricating composition is at least about 40% soluble/dispersible in deionized water at a temperature of about 80°C, and wherein the antioxidant is selected from the group consisting of butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT), carotenoids, gamma oryzanol, sodium sulfite, green tea extract, rosmarinic acid, ubiquinone, lipoic acid, N-acetyl-cysteine, proanthocyanidins, and mixtures thereof.

71. The absorbent product of claim 70, wherein the compatibilizing agent is present in an amount of from about 15% (by weight) to about 20% (by weight).

72. The absorbent product of claim 1, wherein the compatibilizing agent is present in an amount of from about 15% (by weight) to about 20% (by weight).



73. The absorbent product of claim 32, wherein the compatibilizing agent is present in an amount of from about 15% (by weight) to about 20% (by weight).

74. The absorbent product of claim 62, wherein the compatibilizing agent is present in an amount of from about 15% (by weight) to about 20% (by weight).

**IX. EVIDENCE APPENDIX**

None.

**X. RELATED PROCEEDINGS APPENDIX**

None.